IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.98 OF 2003

1. Mrs. Sebastian Mendes, widow of late Sebastiao Gracias, major in age, housewife, residing a t Sun City, Uddy, Goa Velha, Ilhas, Goa.;

2. Tony Gracias, son of late Sebastiao Gracias, major in age, married, residing at Sun City, Goa Velha, Ilhas, Goa and his wife;

3. Maria Perpetua Araujo e Gracias, major in age, housewife, residing at Sun City, Goa velha, Ilhas, Goa;

4. Mary Bertha Gracias, daughter of late Sebastiao Gracias, spinster, major in age, residing at Goa Velha, Ilhas, Goa;

5. Bernadette Fernandes, daught er of late Sebastiao Gracias, Aivao, Caranzalem, Ilhas, Goa;

6. Micheal Sebastiao Fernandes, son-in-law of late Sebastiao Gracias, major in age, residing at jAivao, Caranzalem, Ilhas, Goa;

7. Martha D'Souza, daughter of late

Sebastiao Gracias, married, residing at Morgado, Velha Goa;

8. Teodosio D'Souza, son-in-law of late Sebastiao Gracias, major in age, married, residing at Morgado, Velha, Goa;

9. Leena Ribeiro, daughter of late Sebastiao Gracias, major in age, married, residing at St. Cruz, Ilhas, Goa;

10. Augusto Ribeiro, son-in-law of late Sebastiao Gracias, residing at St. Cruz, Ilhas, Goa ... PETITIONERS

VERSUS

1. State of Goa through Chief Secretary,

2. The Estate Officer, Directorate of Health Services, Govt. of Goa, Panaji;

3. The Deputy Collector, with office at the Collectorate, Panaji, Goa;

4. The Block Development Officer, with office at Junta House, Panaji, Goa;

5. The Sarpanch, Village Panchayat of St. Andre, Goa Velha, Goa. ... RESPONDENTS

Mr. M.B. Da Costa and Mr. J.A. Lobo, Advocates for the Petitioners.

Mr. N.K. Sawaikar, Addl. Govt. Advocate,for Respondents Nos. 1 to 4.

Mr. P.A. Kholkar, Advocate for Respondent No.5.

CORAM : F.I. REBELLO,J.

DATED : JUNE 19, 2003.

ORAL JUDGMENT

Rule. Respondents waive service. Heard forthwith.

2. By the present Petition, the Petitioner impugns the Order dated 24-2-2003 whereby the Estate Officer, Respondent No.2, has issued certain directions against the Petitioners herein. Pursuant to the Show Cause Notice the Petitioner had filed his reply. The Petitioner claims right in the property pursuant to a lease deed. That lease deed was entered into with the predecessor-in-title of Respondent No.1. An Order under Section 6 has to proceed on the footing that the person to whom the notice is issued has no right whatsoever in the property. In the event the Petitioner has rights in the property, then the proper procedure would be to direct eviction of occupants of the premises in terms of Section 5 of the Goa Public Premises (Act and Rules or any other provision in law which may be available to the Respondents. In the light of that,

clearly the impugned Order will be without jurisdiction and consequently the Rule is made absolute in terms of prayer clause 1. It is, however, made clear that it will be open to the Respondents to take such steps as in law available, uninfluenced by the Order of this Court.

Petition stands disposed of.

F.I. REBELLO,J.

ac.